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for

## CHEYENNE COUNTY, KANSAS

### ENVIRONMENTAL/SANITARY CODE

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# ENVIRONMENTAL/SANITARY CODE

## CHEYENNE COUNTY, KANSAS

### CHAPTER 1

#### ADMINISTRATIVE PROCEDURES

##### **1-1.0 AUTHORITY AND POLICY.**

1-1.1 Legal Authority. This code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701 et. seq. or K.S.A. 12-3301 et. seq., as amended.

1-1.2 Declaration of Finding and Policy. The Commissioners find that the provision of adequate and reasonable control over environmental conditions in the county is necessary and desirable. An environmental/sanitary code establishes standards to eliminate and/or prevent the development of environmental conditions that are hazardous to health and safety, and promotes the economical and planned development of the land and water resources of the county. For these reasons and objectives, it will be the policy of the Board of County Commissioners to adopt and amend when necessary an environmental/sanitary code to provide regulation of practices that affect health and safety.

1-1.3 Purpose. The purpose and intent of this chapter is to prescribe the administrative procedures to be followed in administering this environmental/sanitary code or any amendments thereto; and to prescribe rules and regulations for controlling practices to minimize health and safety hazards.

1-1.4 Title. This code shall be known and referred to as the Cheyenne County Environmental/Sanitary Code.

1-1.5 Applicability. The procedures prescribed in this chapter shall be followed in administering this code and any amendments thereto.

1-1.6 Effective Date. This chapter shall become effective July 15, 1997.

##### **1-2.0 DEFINITIONS.**

The following words, terms and phrases appear in more than one chapter of this code and thus have general application and usage. Words, terms, and phrases appropriate or applicable to specific chapters within this code may be found in that particular chapter.

1-2.1 Administrative Agency. The entity authorized to implement and enforce the provisions of this code. The Administrative Agency for Cheyenne County is the County Board of Health.

1-2.2 Administrative Rules. Those rules and regulations contained in chapter one of this sanitary code which prescribe general procedures to be followed in the administration of the environmental/sanitary code adopted by the county.

1-2.3 Authorized Representative. Any person who is designated by the Administrative Agency to administer this code.

1-2.4 Board of County Commissioners. The Board of County Commissioners of Cheyenne County, Kansas.

1-2.5        Board of Health. The Cheyenne County Board of Health.

1-2.6        Hearing Officer. Any person or persons appointed by the Administrative Agency and approved by the Board of County Commissioners to hear appeals from decisions relating to the enforcement and administration of this code.

1-2.7        Owner. One or more persons jointly or severally in whom is vested: (1) all or part of the legal title to property, or (2) all or part of the beneficial ownership and a right to prevent use and enjoyment of the premise; and such term includes a mortgagee in possession.(K.S.A. 58-2543g)

1-2.8        Person. Any individual, corporation, partnership, association, state, or political subdivision thereof, federal, state agency, municipality, commission, or interstate body or other legal entity recognized by law as the subject of rights and duties.

1-2.9        Premise. Any lot or tract of land and all buildings, structures, or facilities located thereon.

1-2.10       State Department. Shall mean the Kansas Department of Health and Environment.

### **1-3.0        ADMINISTRATIVE POWERS AND PROCEDURES.**

1-3.1        Right of Entry. Representatives of the authorized representative shall have the power and authority to inspect premises for compliance with the County Environmental/Sanitary Code with the permission of the owner, tenant or legal representative.

### **1-3.2        Notification, License, Fees.**

1-3.2.1       Notification and Licenses. Every person required by this environmental/sanitary code to obtain a license or make notification of an action, shall do so to the authorized representative.

1-3.2.2       Standard Fees. The County Commissioners may adopt reasonable fees for any or all activities and licenses required by the environmental/sanitary code, and said fees shall be paid to the authorized representative. The fees paid are nonrefundable. The authorized representative shall not process any license or other required applications until the required fees have been paid.

1-3.2.3       Misrepresentation of Facts. The misrepresentation of facts or noncompliance with the requirements on actions or construction regulated by this code are reasons for denial or revocation of approval to construct or licenses.

1-3.2.4       License Nontransferable. All licenses required by this code shall be nontransferable.

### **1-3.3      Notices, Orders, Appeals.**

1-3.3.1      Notice of Violations. When the authorized representative determines that there has been a violation of any provision of this code, notice of such violation shall be issued to the person responsible. The notice shall:

- a. be in writing;
- b. include a statement of why the notice is being issued;
- c. allow a reasonable period of time for performance of any work required by the notice; and,
- d. be properly served upon the owner or agent.

Such notice shall be deemed properly served when a copy thereof has been sent by certified mail to the last known address of the owner or agent.

1-3.3.2      Appeal for Hearing. Any person aggrieved by any notice or order issued by the authorized representative under the provisions of this environmental/sanitary code may request, and shall be granted, a hearing on the matter before the Hearing Officer; provided such person shall file with the authorized representative within ten working days after the date of issuance of the notice or order, a written petition requesting a hearing and setting forth the grounds upon which the request is made. The filing of the request for a hearing shall operate as a stay of the notice or order. Upon receipt of such petition, the authorized representative shall confer with the Hearing Officer and set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to show why such notice or order should be modified or withdrawn. The hearing shall be commenced no later than ten working days after the date on which the petition was filed; provided, that upon request of the petitioner, the authorized representative may postpone the hearing for reasonable time beyond such ten-day period, when in the authorized representative judgment the petitioner has submitted justifiable reason for such postponement.

1-3.3.3      Report of Hearing. Within ten working days after such a hearing, the Hearing Officer shall submit the findings of the hearing in writing to the authorized representative. The findings shall include a recommendation that the order be sustained, modified, or withdrawn. Upon the receipt of the report of the Hearing Officer, the authorized representative shall consider the report and issue an order, confirming, modifying or withdrawing the notice or order, and shall notify the appellant in the same manner as is provided for in Sec. 1-3.3.1. The decision of the Hearing Officer may be appealed, in writing, to the County Board of Health within 10 days of receipt of the decision. The decision shall become final upon the expiration of the time for filing an appeal, or when final action is taken upon appeal, whichever is later.

1-3.3.4      Emergency Orders. Whenever the authorized representative finds that an emergency exists which requires immediate action to protect the public, the authorized representative may issue an order reciting the existence of such an emergency, specifying action be taken to meet the emergency. Such an order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately.

### **1-3.4      Records.**

1-3.4.1      Notifications and License Applications. All notifications and applications for licenses required by this code shall be filed with the authorized representative.

1-3.4.2      Official Actions. A written record of all official actions taken on notifications or applications for license or fees required by this environmental/sanitary code shall be kept on file

with the authorized representative and shall comply with K.S.A. 75-3504 and 45-401.

1-3.4.3 Proceedings of Hearings. The proceedings of all hearings, including findings and decisions of the Hearing Officer, together with a copy of every notice and order related thereto shall be filed with the authorized representative. Transcripts of the proceedings of hearings need not be transcribed unless a judicial review of the decision is sought.

### **1-3.5 General Provisions.**

1-3.5.1 Enforcement Procedure. The County Attorney shall enforce the provisions of this code and other environmental/sanitary codes adopted by the county and is hereby authorized and directed to file appropriate actions for such enforcement, upon request of the authorized representative. Actions of injunction, mandamus, and quo warranto may be utilized for enforcement of these codes and shall be governed by the provisions of the Kansas Code of Civil Procedure.

1-3.5.2 Penalties. In addition to, and independently of, the enforcement procedures provided in section 1-3.5.1 herein, any violation of any provision of the Cheyenne County Environmental/Sanitary Code shall be deemed to be a misdemeanor and upon conviction, punishable by a fine not to exceed two hundred dollars (\$200) for each offense. Each day's violation shall constitute a separate offense.

1-3.5.3 Disclaimer of Liability. This code and other environmental/sanitary codes adopted shall not be construed or interpreted as imposing upon the county or its officials or employees (1) any liability or responsibility for damages to any property, or (2) any warranty that any system, installation or portion thereof that is constructed or repaired under specifications and inspections required by code will function properly.

1-3.5.4 Separability. If any clause, sentence, paragraph, section or subsection of this code shall for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, repeal or invalidate the remainder thereof, but shall be confined to the clause, sentence, paragraph, section or subsection found unconstitutional and invalid. (K.S.A. 19-3708)

# ENVIRONMENTAL/SANITARY CODE

## CHEYENNE COUNTY, KANSAS

### CHAPTER 2

#### ON-SITE WASTEWATER MANAGEMENT

##### **2-1.0 PURPOSE AND INTENT.**

Sewage is a potential source of disease and a hazard to the health, safety, and welfare of the public. It is the purpose of this chapter to provide minimum standards for the location, design, construction, maintenance and use of private wastewater systems, and the removal and disposal of materials from such facilities within the legal boundaries of Cheyenne County.

**2-2.0 APPLICABILITY.** The provisions of this chapter shall apply to all unincorporated areas of the county.

2-2.1 Effective Date. This chapter shall become effective July 15, 1997.

##### **2-3.0 DEFINITIONS.**

2-3.1 Bedrock. The more or less solid undisturbed rock in place either at the surface or beneath surficial deposit of gravel, sand, or soil or a consolidated rock formation of impervious material which may exhibit jointed, fractured, or deteriorated characteristics.

2-3.2 Beneficial Use. The use of water for any of the following purposes: agricultural water supply; aquatic life; domestic water supply; groundwater recharge; industrial water supply; recreation.

2-3.3 Cesspool. Any covered or uncovered receptacle which receives untreated wastewater from a building and permits the untreated wastewater to seep into the surrounding soil.

2-3.4 Graywater. Wastewater discharge from plumbing fixtures, such as kitchen sinks, handbasins, tubs, showers, laundries, etc.

2-3.5 Groundwater Table. The upper surface of the groundwater in the zone of saturation of a geologic formation.

2-3.6 Nuisance. Any conditions or activities which have or threaten to have a detrimental effect on the environment or health of the public.

2-3.7 Private Wastewater System. Any system which is not required to hold a Kansas Water Pollution Control Permit pursuant to K.S.A. 65-165. This includes wastewater systems which function by soil absorption, evaporation, transpiration, holding tanks, or any combination of the above.

2-3.8 Sanitary Privy. Any facility designed for the disposal of non-water carried waste from the human body.

2-3.9 Septage. The liquid and solid material pumped from a septic tank or cesspool during



cleaning.

2-3.10 Septic Tank. A watertight, accessible covered receptacle designed and constructed to receive sewage from a building sewer, to settle solids from the liquid, to digest organic matter, and store digested solids through a period of retention and allow the clarified liquids to discharge to other treatment units for final disposal.

2-3.11 Sewage (Wastewater). Any substance that contains any of the waste products or excrementitious or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry.

2-3.12 Subdivision and Subdivided Lands. Any tract of land that is or has been subdivided into two or more lots for the purpose of sale or building development, whether immediate or future, including the streets, alleys, or other portions thereof intended to be dedicated for public use, and any redivision of lands.

2-3.13 System Cleaner. A person who engages in the pumping out and/or removal of wastewater, sludge, or human excreta from privies, vaults, septic tanks, portable toilets, or private wastewater systems; and the transportation of such material to a point of final disposal.

2-3.14 System Contractor. A person who engages in the installation and/or modification of a private wastewater system.

2-3.15 Vaults/Holding Tank. Any water-tight receptacle for the retention of wastewater either before, during, or after treatment.

2-3.16 Wastewater System. Any system along with attendant pipes and appurtenances designed and constructed to collect, store, treat, and dispose of domestic, industrial, or commercial waste.

## **2-4.0 PROHIBITED PRACTICES.**

2-4.1 Use of Nonapproved Private Systems. No person shall use, or cause to be used, any private wastewater system, or sanitary privy constructed after the effective date of this environmental/sanitary code until it has been inspected and approved by the authorized representative or if it:

- a. has been enjoined as a public health nuisance by a court of competent jurisdiction or,
- b. fails to comply with the provisions of this environmental/sanitary code, and written notice thereof has been given by the authorized representative or,
- c. discharges waste onto the surface of the ground, or into waters of the state as defined in K.S.A. 65-161(a) or,
- d. cause vector breeding, produces offensive odors or any condition that is detrimental to health and comfort.

2-4.2 Existing Private Wastewater Systems. All existing private wastewater systems that were installed prior to the effective date of this code shall be acceptable until such time a modification or replacement is required or necessary except those private wastewater systems that are in violation of Kansas State Statute.

2-4.3 Use of Private Systems Within 400 Feet of Public Sewer. No private wastewater

system shall be constructed, modified or used within 400 feet of an existing public sewer, if the municipality or sanitation district agrees to provide the sewer service, unless the authorized representative finds that connection to such a sewer is not feasible and that a private wastewater system, meeting the requirements of this code, can be constructed on that property and certifies the use of such system will not, in any way, compromise the purpose of this code.

2-4.4 Non-Approved Discharges to a Private Wastewater System. No cooling water, discharged from roof drains, discharge from footing tile drains or swimming pool wastewater shall be directed to the private sewage disposal or wastewater treatment system. No automotive grease, oil, antifreeze or toxic or hazardous waste from a commercial or manufacturing business or waste other than domestic waste shall be discharged to a private sewage disposal or wastewater treatment system.

2-4.5 Location of Private Wastewater Systems Below Full/Flood Pool. No portion of a private wastewater system shall be located below the flood pool elevation of any reservoir, full pool elevation of any pond, lake, stream, interior drainage area, or water supply reservoir unless written approval is obtained from the authorized representative.

2-4.6 Location of Private Wastewater Systems within a 100 Year Flood Plain. No portion of a private wastewater system shall be located within the 100 year flood plain, as established by the Federal Emergency Management Agency, of any stream, river, or water course.

2-4.7 Location of Private Wastewater Systems Within 100 Feet of a Well. No portion of any private wastewater system shall be placed within 100 feet of a public water supply well or the minimum distance required by the current State Regulations.

2-4.8 Cesspool or Seepage Pits. The construction or modification of a cesspool or seepage pit is prohibited.

## **2-5.0 REQUIREMENTS FOR PRIVATE WASTEWATER SYSTEMS.**

2-5.1 General. After the effective date of this chapter:

- a. No person shall construct or modify, or permit to be constructed or modified, any private wastewater system until the authorized representative has been notified.
- b. A certification of approval and usage shall be required for all private wastewater systems constructed or modified.
- c. The Administrative Procedures and Construction Guidelines for Private Wastewater Systems or other references approved by the Kansas Department of Health and Environment will be used as a guide for installing or modifying a private wastewater system. (See the appendix in the Construction Guidelines for a list of these references.)
- d. All private wastewater systems shall meet the minimum distance requirements as stated in the Administrative Procedures and Construction Guidelines for Private Wastewater Systems.
- e. The disposal of septage shall comply with the standards in the Administrative Procedures for Private Wastewater Systems or other references approved by the Kansas Department of Health and Environment.

2-5.2 Suitable Site. No site shall be approved:

- a. if connection to an approved public wastewater collection system is feasible or the site is not in compliance with the provisions of Section 2-4.0 of this code.
- b. if the site contains less than two acres of land exclusive of roads, streets, or other public right-of-ways or easements unless the lot was subdivided and/or platted prior to the effective date of this chapter, then the site shall meet all minimum distance requirements.
- c. unless minimum standards for percolation rates, soil profiles and depth to impervious rock (bedrock) or groundwater are met as stated in the Administrative Procedures and Construction Guidelines for Private Wastewater systems.
- d. unless the site has a primary and secondary site for a private wastewater system.

2-5.3 Construction Approval. No person shall use, or make available for use any private wastewater system constructed or modified after the effective date of this chapter until the construction has been inspected and approved and a certificate of approval and usage issued by the authorized representative and no portion of the system shall be covered or made inaccessible prior to inspection. If the certificate of approval and usage is denied the authorized representative shall send a written notice to the owner stating the reasons of disapproval.

2-5.4 Portable Toilets. Units equipped with holding or storage tanks, chemical or otherwise, shall be allowed on a temporary basis and shall comply with minimum sanitary practices as determined by the authorized representative.

2-5.5 Proper Maintenance and Operation. All private wastewater systems shall be maintained in good working conditions and whenever the authorized representative shall find any private wastewater system in violation of this code, the owner and/or user shall be ordered to correct those violations.

2-5.6 Waiver. The authorized representative shall have the authority to grant exceptions when reliable information is provided which can justify the exception without compromising the quality of the environment or the public health.

## **2-6.0 REQUIREMENTS FOR SANITARY PRIVIES.**

2-6.1 Approval to Construct. No sanitary privy shall be approved for construction if a more effective means of wastewater treatment can reasonable be provided on the site.

2-6.2 Approval of Construction. No person shall use, or make available for use, any newly constructed or modified sanitary privy until the construction has been inspected and approved and a certificate of approval and usage has been issue by the authorized representative.

2-6.3 Proper Maintenance. No person shall use, or offer for use, any sanitary privy that is not maintained in a clean and sanitary condition.

2-6.4 Vault Required in Certain Areas. In areas where the elevation of the groundwater is within four feet of the bottom of the pit, a watertight vault shall be provided in lieu of the standard pit.

2-6.5      Location. No sanitary privy shall be installed less than 100 feet from an existing well and all minimum distance requirements are met as stated in the Administrative Procedures and Construction Guidelines for Private Wastewater Systems.

## **2-7.0      REQUIREMENTS FOR A SYSTEM CLEANER AND SYSTEM CONTRACTOR.**

2-7.1      System Cleaner. No contractor shall engage in the cleaning of a private wastewater system or the transportation of wastewater to a final disposal site unless he holds a valid system cleaner's license from the authorized representative with the exception of the owner doing their own cleaning.

2-7.1.1    Contracting With Unlicensed Persons Prohibited. No person responsible for operating a private wastewater system or sanitary privy shall contract with any system cleaner unless that person holds a valid license.

2-7.1.2    Disposal of Septage. The disposal of septage shall comply with the requirements as stated in the Administrative Procedures for Private Wastewater Systems.

2-7.2      System Contractor. No contractor shall install or modify a private wastewater system unless he holds a valid system contractor's license from the authorized representative with the exception of the owner doing their own installation or modification.

2-7.2.1    Construction Requirements. All private wastewater systems installed after the effective date of this code shall comply with the requirements as stated in the Administrative Procedures and Construction Guidelines for Private Wastewater Systems.

2-7.3      Revocation or Suspension of License. A license may be revoked or suspended for failure to comply with this code.

**2-8.0      REQUIREMENTS FOR SUBDIVISION DEVELOPMENT.** After the effective date of this code no person shall develop any subdivision until the plans and specifications for on-site wastewater management have been approved by the authorized representative.

# ENVIRONMENTAL/SANITARY CODE

## CHEYENNE COUNTY, KANSAS

### CHAPTER 3

#### NON-PUBLIC WATER SUPPLIES

##### **1.0**            **PURPOSE AND INTENT.**

The provisions of this chapter are for the purpose of regulating and controlling the development, maintenance, and use of all water supplies other than public supplies in Cheyenne County, Kansas, in order that public health will be protected and the contamination and pollution of the water resources of the county will be prevented.

**3-2.0**        **APPLICABILITY.** The provisions of this chapter shall apply to all unincorporated areas of the county.

2.1            Effective Date. This chapter shall become effective July 15, 1997.

##### **3.0**            **DEFINITIONS.** All definitions as stated in K.A.R. 28-30-2 shall also apply.

3.1            Domestic Uses. The use of water by any person or by a family unit or household for household purposes, or for the watering of livestock, poultry, farm and domestic animals used in operating a farm, or for the irrigation of lands not exceeding a total of 2 acres in area for the growing of gardens, orchards and lawns. (K.A.R. 28-30-2 (h))

3.2            Non-Public Water Supply. All water supplies not meeting the definition of public or semi-public water supplies.

3.3            Public Water Supply. Any system that has at least ten service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

3.4            Semi-Public Water Supply. A water supply used for domestic uses serving 3 to 9 residences exclusive of family units.

3.5            Subdivision and Subdivided Lands. Any tract of land that is or has been subdivided into two or more lots for the purpose of sale or building development, whether immediate or future, including the streets, alleys, or other portions thereof intended to be dedicated for public use, and any redivision of lands.

##### **4.0**            **REQUIREMENTS FOR NON-PUBLIC WATER SUPPLIES.**

4.1            Notification. Any person constructing or reconstructing a non-public water supply shall notify the authorized representative as required in the Administrative Procedures for Non-Public Water Supplies.

##### **5.0**            **MINIMUM STANDARDS FOR GROUNDWATER SUPPLIES.**

5.1            Location. All wells shall meet the minimum distance requirements as stated in the Administrative Procedures and the Construction Guidelines for Non-Public Water Supplies.

- 5.2            Construction or Reconstruction. The K.A.R. 28-30-1 through 28-30-10 et. seq. as amended and the Administrative Procedures for Non-Public Water Supplies will be used as the requirements for the construction or reconstruction for all water supplies other than public water supplies.
- 5.3            Abandoned Wells. All abandoned wells whether they are cased or uncased shall be plugged in accordance with K.A.R. 28-30-1 through 28-30-10 et seq as amended..
- 5.4            Inactive Status. All inactive status wells shall comply with K.A.R. 28-30-7(f) and the Administrative Procedures for Non-Public Water Supplies.
- 5.5            Semi-Public Water Supplies. Standards may be written for semi-public water supplies. These standards will be submitted to KDHE for review and approval prior to inclusion in the administrative procedures and construction guidelines for Non-Public Water Supplies.

**6.0            REQUIREMENTS FOR SUBDIVISION DEVELOPMENT.**

fter the effective date of this code no person shall develop any subdivision until the plans and specifications for water supply provision and/or protection have been approved by the authorized representative.